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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/802,309	03/07/2001	Murali R. Krishnan	MS1-327USC1	3155
22801	7590	11/02/2004	EXAMINER	
LEE & HAYES PLLC 421 W RIVERSIDE AVENUE SUITE 500 SPOKANE, WA 99201			PIZARRO, RICARDO M	
			ART UNIT	PAPER NUMBER
			2661	

DATE MAILED: 11/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/802,309

Applicant(s)

KRISHNAN, MURALI R.

Examiner

Ricardo Pizarro

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 March 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-56 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 54 and 56 is/are allowed.
- 6) ☒ Claim(s) 1,7,10-13,15-20,23,24,26,29,33-43,45 and 50 is/are rejected.
- 7) ☒ Claim(s) 2-6,8,9,14,21,22,25,27,28,30-32,44,46-49,51-53 and 55 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 March 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

1. Claims 1-14, 22, 24-28, 31, 46-49, 5-52 and 55 are objected to because of the following informalities and it is suggested to applicant:

In claim 8 line 5 replace "other threshold" with –another threshold-.

In claim 9 line 2 replace "other threshold" with –another threshold-.

In claim 14 line 6 replace "the end" with –an end-, insert "additional" before –operation-.

In claim 22 line 1 replace the second occurrence of "a" with –the-.

In claim 24 line 6 and line 7 insert " at least one" before –network-.

In claim 25 line 5 replace "the average" with –an average-.

In claim 31 insert "the" before –another server-..

In claim 46 line 4 replace " a first type" with –the first type-.

In claim 50 line 6 insert " at least" before –network server-..

In claim 52 line 6 insert "server" before –operations- and delete "the", in line 6 insert "said" before –previous-, in line 7 insert "server" before –operations-.

In claim 53 line 4 insert " said" before –previous- and insert "server" before –operations-

In claim 55 lines 5, 7 , 10 and 11 insert 'plurality of' before –network servers-.

Appropriate correction is required.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 7, 10-13, 15-17 and 23-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hanson in view of Charvillat.

US patent No. 5,633,861 (Hanson et al) discloses Traffic management and congestion control for packet based networks, comprising to generate a bandwidth value indicating an average bandwidth used by a server to perform previous server operations (measurement of the utilization of critical resources, col 5 lines 63-67) as in claim 15 and 1; receive a request for the server to perform an additional server operation; compare the bandwidth value to a threshold (occupancy is constantly monitored and compared to a set of queue thresholds, col 10 lines 36-40) ; and to restrict the request in a first manner if the bandwidth value exceeds the threshold, as in claim 1; wherein the first type comprises a transmit operation (transmission operation, col 11 lines 15-20) , as in claim 7; at least a server (server 301 in Fig. 3), an asynchronous queue (queue 305 in Fig. 3) and a throttling bandwidth system (bandwidth threshold mechanism) coupled to said queue, as in claim 24

Hanson did not specifically disclose restricting the request if is above threshold, a sin claims 1, 10-13, 15, 17 , 24.

US patent No. 5,315,586 (Charvillat et al) discloses a resource reallocation method, comprising restricting/ rejecting allocation of resources if request is above a predefined threshold, -several embodiments are disclosed- (col 7 lines 25-30), as in claims 1, 10-13, 15, 24 .

Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the invention that some kind of medium , such as a memory or storage means which is an important feature of all computer processes would have been needed and also to provide the request restriction method as disclosed by Charvillat to the system disclosed by Hanson with the motivation of obtaining a flow enforcement method wherein utilization of network resources is maximized while over utilization of network resources is limited.

4. Claims 29, 33-42, 43, 45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Charvillat. in view of Akiyoshi

US patent No. 5,315,586 (Charvillat et al) discloses a resource reallocation method, comprising a method comprising: generating a value indicating a bandwidth used by a server to perform previous server operations; receiving a request for the server to perform an additional server operation; and to restricting the request ii above a threshold (restricting/ rejecting allocation of resources if request is above a predefined threshold, -several embodiments are disclosed- col 7 lines 25-30), as in claims 29, 33-41, and 45.

Charvillat did not specifically disclose restricting the request in a first manner if the value exceeds a first threshold but does not exceed a second threshold, and restricting the request in a second manner if the value exceeds the second threshold, as in claims 29 and 45.

US patent no. 5,715,237 (Akiyoshi et al) discloses a Digital switching equipment comprising bandwidth allocation wherein a request is restricted in a first manner if the value exceeds a first threshold but does not exceed a second threshold, and restricting the request in a second manner if the value exceeds the second threshold (col 7 lines 42-52), as in claims 29 and 45.

Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the invention that some kind of medium , such as a memory or storage means which is an important feature of all computer processes would have been needed and also to provide the threshold mechanism as disclosed by Akiyoshi to the method disclosed by Charvillat with the motivation of providing a flow enforcement method which ensures precision cell traffic control.

5. Claim 50 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hanson in view of Akiyoshi

US patent No. 5,633,861 (Hanson et al) discloses Traffic management and congestion control for packet based networks, comprising a host system comprising: at least one network server(server 301 in Fig. 3),; an asynchronous thread queue to receive a request(queue 305 in Fig. 3) , from a client process, to be performed by one of the at least one network server; and a bandwidth throttling system, (bandwidth

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threshold mechanism) coupled to the asynchronous thread queue to compare value indicating a bandwidth used by the network server to perform previous server operations to at least one of a first threshold and a second threshold (a set of queue thresholds, col 10 lines 36-40) , as in claim 50.

Hanson did not specifically disclose to restrict the request in a first manner if the value exceeds the first threshold but does not exceed the second threshold, and to restrict the request in a second manner if the value exceeds the second threshold, as in claim 50.

US patent no. 5,715,237 (Akiyoshi et al) discloses a Digital switching equipment comprising bandwidth allocation wherein a request is restricted in a first manner if the value exceeds a first threshold but does not exceed a second threshold, and restricting the request in a second manner if the value exceeds the second threshold (col 7 lines 42-52), as in claim 50.

Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the invention that some kind of medium , such as a memory or storage means which is an important feature of all computer processes would have been needed and also to provide the threshold mechanism as disclosed by Akiyoshi to the method disclosed by Hanson with the motivation of providing a flow enforcement method which ensures precision cell traffic control.

Allowable Subject Matter

6. Claims 54 and 56 are allowed.

7. Claim 55 would be allowable if rewritten to overcome objection to claim under CFR 1.75

8. Claims 2-6, 8-9, 14, 21-22, 25, 27-28, 30-32, 44, 46-49, 51-53 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claim. Please also notice objection to claims under 37 CFR 1.75

Conclusion

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

Washington, D.C. 20231

or faxed to:

(703) 872-9306

(for formal communications intended for entry, for informal or draft communications, please label "PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to 220 South 20th Street, Crystal Plaza Two, Lobby, Room 1B03, Arlington, Va 22202 (Customer Window).

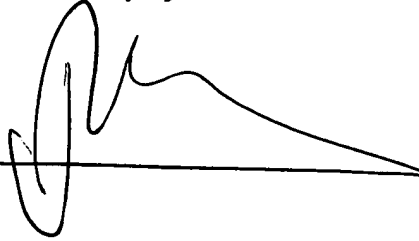
Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Ricardo Pizarro** whose telephone number is (571) 272-3077. The examiner can normally be reached on Monday-Friday from 9:00 AM to 5:30 PM. The fax number for this Group is (703) 872-9306.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Kenneth Vanderpuye** can be reached on (571) 272-3078.

10/27/2004

Ricardo M. Pizarro

A handwritten signature in black ink, consisting of a large, stylized 'R' followed by a horizontal line that tapers to a point on the right.